

IN THE CIRCUIT COURT FOR  
MONTGOMERY COUNTY, ALABAMA

THEODORE DAVIS,

Plaintiff,

ARMSTRONG RELOCATION. LLN., et al.,

Defendants.

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) Case No. CV-2004-370  
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FILED  
CIRCUIT COURT OF  
MONTGOMERY COUNTY  
2004 APR 28 PM 3:45

**MOTION FOR PARTIAL SUMMARY JUDGMENT**

COMES NOW defendant, Edna Dumas, a by and through her attorney and moves this Honorable Court to enter, pursuant to Rule 56 of the Alabama Rules of Civil Procedure, a partial summary judgment in this defendant's favor dismissing any claim to title or possession of the property located at 207 Rosedon Drive, Montgomery, Alabama on the ground that there is no genuine issue as to any material fact and this defendant is entitled to a judgment as a matter of law. The facts and arguments contained in defendant Dumas' answer and motion to dismiss previously filed are hereby adopted and incorporated by reference.

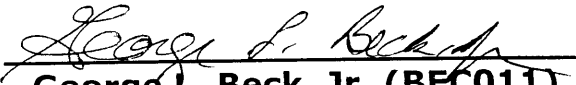
This motion is based upon the pleadings in this case, the affidavit of Edna Dumas attached as Exhibit "A" and the Warranty Deed to said property in the name of Edna Dumas attached as Exhibit "B."

WHEREFORE PREMISES CONSIDERED, defendant Edna Dumas requests this Honorable Court to set this motion for a hearing and, after due

consideration of the same, to enter a summary judgment in favor of this defendant, dismissing this action with prejudice.

Respectfully submitted this 28<sup>th</sup> of April, 2004.

**Capell & Howard, P.C.**

By:   
**George L. Beck, Jr. (BEC011)**  
Attorney for Defendant  
P.O. Box 2069  
Montgomery, AL 36102-2069  
(334) 241-8000 phone  
(334) 241-8291 fax

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document on the following counsel of record by placing a copy in the United States mail, postage prepaid and properly addressed to them on this 28<sup>th</sup> day of April, 2004.

Attorney for Defendant Armstrong:  
**Hon. C. Winston Sheehan, Jr.**  
Ball, Ball, Matthew & Novak, P.A.  
P.O. Box 2148  
Montgomery, AL 36102-2148

Plaintiff attorney:  
**Michael Rountree**  
ROUNTREE & ASSOCIATES, P.C.  
448 Saint Lukes Drive  
Montgomery, AL 36117

**Capell & Howard P.C.**

By: George L. Beck, Jr.  
**GEORGE L. BECK, JR. (BEC011)**

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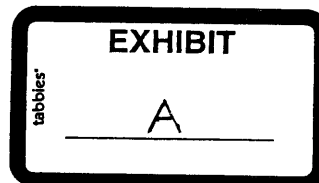
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**AFFIDAVIT OF EDNA DUMAS**

Before me, the undersigned notary public in and for said state and county, personally appeared Edna Dumas, who upon being duly sworn on oath deposed and said as follows:

1. My name is Edna Dumas and I am over the age of 19. This affidavit is based upon my own personal knowledge regarding the matters of the above styled case and is submitted for the purpose of supporting a motion for summary judgment.
2. At no time did I ever deed the property at 207 Rosedon Drive, Montgomery, Alabama to Theodore Davis.
3. At no time did I ever agree to sell, nor sell the property at 207 Rosedon Drive, Montgomery, Alabama to Theodore Davis.

Further, Affiant saith not.



STATE OF NEW JERSEY

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COUNTY OF BERGEN

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Dated this 23 day of April, 2004.

Affiant Edna Dumas  
Edna Dumas

Sworn to and subscribed before me on this 23 day of April, 2004.

(SEAL)

Heather K Strohl  
NOTARY PUBLIC

My Commission Expires: September 25, 2007

HEATHER K. STROHL  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES SEPTEMBER 25, 2007

THE STATE OF ALABAMA,  
MONTGOMERY COUNTY.

One Hundred and No/100

DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that in consideration of and other valuable considerations to the undersigned GRANTOR or GRANTORS in hand paid by the GRANTEE(S) herein, the receipt whereof, is hereby acknowledged wt. Louis Norman Gotthelf and Penny Gale Gotthelf, individually and as husband and wife (herein referred to as GRANTOR(S)), do hereby GRANT, SURRENDER, SELL and CONVEY unto Edna Dumas (herein referred to as GRANTEE(S)).  
her heirs and assigns, the following described Real Estate, situated in the County of MONTGOMERY and State of Alabama.

Lot 13, Block 12, according to the Map of Spring Valley Plat No. 10, as said Map appears of record in the Office of the Judge of Probate of Montgomery County, Alabama, in Plat Book 24, at Page 147.

This conveyance is made subject to that certain mortgage in favor of Real Estate Financing, Inc., dated January 28, 1977, filed for record in the Office of the Judge of Probate of Montgomery County, Alabama, January 31, 1977, in Real Property Book 0330, at Page 0687; Grantees by their acceptance hereof assume and agree to pay said mortgage and the note secured thereby according to their terms.

This conveyance is made subject to covenants, restrictions, reservations, easements and rights of way heretofore imposed upon the subject property.

TO HAVE AND TO HOLD, the aforegranted premises to the said GRANTEE(S), her heirs and assigns FOREVER.

And GRANTOR(S) do covenant with the said GRANTEE(S), her heirs and assigns, that they are lawfully seized in fee simple of the aforementioned premises; that they are free from all encumbrances, except as hereinabove provided; that she has a good right to sell and convey the same to the said GRANTEE(S), her heirs and assigns, and that GRANTOR(S) will WARRANT AND DEFEND the premises to the said GRANTEE(S), her heirs and assigns forever, against the lawful claims and demands of all persons, except as hereinabove provided.

IN WITNESS WHEREOF we have hereunto set ONE hand and seal, this 7th day of September, 1989.  
WITNESSES:  
[Signature]  
Louis Norman Gotthelf (L. S.)  
Penny Gale Gotthelf (L. S.)

THE STATE OF ALABAMA,  
MONTGOMERY COUNTY.  
I, the undersigned, a Notary Public in and for said State at large,  
hereby certify that Louis Norman Gotthelf and Penny Gale Gotthelf  
whose names are signed to the foregoing conveyance, and who are known to me acknowledged before me on this day, that, being informed of the contents of the conveyance they executed the same voluntarily on the day the same bears date.  
Given under my hand and official seal this 7th day of September, 1989.  
[Signature]  
Notary Public.

This instrument was prepared by:  
[Signature]  
I CERTIFY THIS INSTRUMENT WAS FILED FOR RECORD  
SEP 12 4 01 PM '89  
JUDGE OF PROBATE  
187445

JUDGE OF PROBATE

I HEREBY CERTIFY THAT THIS IS  
A TRUE AND CORRECT COPY  
OF THE EXECUTED ORIGINAL.  
JUDGE OF PROBATE

EXHIBIT

B

